

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

|   |   |                              |
|---|---|------------------------------|
| RYRICKA NIKITA CUSTIS,<br>Plaintiff,          | ) | Civil Action No. 7:16cv00391 |
|   | ) |                              |
| v.  | ) |                              |
|   | ) | By: Elizabeth K. Dillon      |
| HAROLD CLARKE, <i>et al.</i> ,<br>Defendants. | ) | United States District Judge |
|   | ) |                              |

**MEMORANDUM OPINION**

Ryricka Nikita Custis, a Virginia inmate proceeding *pro se*, filed a civil rights action pursuant to 42 U.S.C. § 1983 against several defendants at Red Onion State Prison (Red Onion). While Custis alleges, *inter alia*, that Dr. Happy Smith appropriately ordered a bottom bunk assignment for him, he seeks to hold Dr. Smith responsible for Red Onion staff's delay in re-assigning Custis to a bottom bunk. Dr. Smith filed a motion for summary judgment, arguing that Custis's cannot establish an Eighth Amendment claim against Dr. Smith. Custis responded to the motion and stated that he "agrees with what the defendant states" in the motion.

To prevail on an Eighth Amendment claim for denial of medical care, a plaintiff must come forward with facts sufficient to demonstrate that a defendant was deliberately indifferent to a serious medical need. *Estelle v. Gamble*, 429 U.S. 97, 105 (1976); *Staples v. Va. Dep't of Corr.*, 904 F. Supp. 487, 492 (E.D. Va. 1995). Custis and Dr. Smith agree that Custis has not done so. There is no genuine dispute as to any material fact, and the court finds that Dr. Smith was not deliberately indifferent to a serious medical need of Custis and was not personally involved in any delay in the bunk assignment. Thus, the court will grant Dr. Smith's motion for summary judgment.

An appropriate order will be entered.

Entered: August 1, 2017.

*/s/ Elizabeth K. Dillon*  
Elizabeth K. Dillon  
United States District Judge